UNITED STATES OF AMERICA DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF ADMINISTRATIVE LAW JUDGES

| The Secretary, United States |) | | |
|--|-----|-----------|--------------|
| Department of Housing and Urban |) | | |
| Development, on behalf of |) | | |
| |) | | |
| |) | | |
| |) | | |
| Charging Party, |) | | |
| |) | HUDALJ No | .: |
| v. |) | FHEO No.: | 05-09-0523-8 |
| |) | | |
| Robert Ryan, individually, and Loki Properties |) | | |
| Limited Liability Partnership |) | | |
| · |) | | |
| Respondents. |) | | |
| | .) | | |

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about January 16, 2009, Complainant ("Complainant") filed a verified complaint with the United States Department of Housing and Urban Development (the "HUD Complaint"), alleging that Respondent Robert Ryan ("Respondent Ryan"), individually, violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 et seq. (the "Act"), by discriminating based on race, specifically, in violation of 42 U.S.C. § 3604(a). On June 1, 2009, the complaint was amended to add Loki Properties L.L.P. ("Respondent Loki Properties"), owner of the subject property, and Respondent Loki Properties' additional partners, Joseph Tousignant and Randal Ryan. On July 23, 2009, the complaint was amended a second time to remove Joseph Tousignant and Randal Ryan, in their individual capacities, from the complaint, to add sex as a basis, to add a 42 U.S.C. § 3604(b) violation, and to correctly identify the address for the subject property.

The Act authorizes the issuance of a charge of discrimination on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(1) and (2). The Secretary has delegated to the General Counsel (54 Fed.Reg. 13121), who has retained and re-delegated to the Regional Counsel (73 Fed.Reg. 68442) the authority to issue such a charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Office of Fair Housing and Equal Opportunity Region V Director, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case based on race and sex, and has authorized and directed the issuance of this Charge of Discrimination ("Charge").

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned HUD Complaint and Determination of Reasonable Cause, Respondents Loki Properties L.L.P. and Robert Ryan are charged with discriminating against Complainant an aggrieved person as defined by 42 U.S.C. §3602(i), based on race and sex in violation of 42 U.S.C. §3604(a) and (b) as follows:

- 1. It is unlawful to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race and/or sex. 42 U.S.C. § 3604(a).
- 2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race and/or sex. 42 U.S.C. § 3604(b).
- 3. Complainant is both male and African-American. Complainant is an "aggrieved person," as defined by 42 U.S.C. § 3602(i).
- 4. Respondent Loki Properties is a Minnesota limited liability partnership and has its principal place of business at 1547 Hay Creek Valley Road, Red Wing, Minnesota.
- 5. At all times relevant to this Charge, Respondent Robert Ryan, a resident of Red Wing, Minnesota, along with partners Joseph Tousignant and Randal Ryan, owned Respondent Loki Properties. Upon information and belief, Respondent Ryan, Randal Ryan and Joseph Tousignant also manage the subject property and participate in, among other things, the rental of apartments.
- 6. At all times relevant to this Charge, Respondent Loki Properties owned and operated the building located at 402 East 7th Street, Red Wing, Minnesota (hereafter "subject property"). The subject property is a two-story apartment building consisting of four apartments, with two units located on the ground floor and two units located on the second floor. Upon information and belief, Respondent Loki Properties purchased the subject property in or around April 2008.
- 7. Upon information and belief, sometime in late 2008 or early 2009, Respondent Loki Properties received a grant from the City of Red Wing Housing and Redevelopment Authority ("RWHRA") to complete renovations to the subject property.

- 8. Upon information and belief, Respondent Loki Properties owns additional rental properties located at 611 Bluff Street, Red Wing, Minnesota, and 1521 East Avenue, Red Wing, Minnesota.
- 9. At all times relevant to this Charge, Respondent Loki Properties was engaged in the business of apartment complex management and managed the subject property. Respondent Loki Properties participates in the Section 8 tenant-based assistance housing choice voucher program ("Section 8 voucher program").
- 10. Complainant is a participant of the RWHRA Section 8 voucher program. In or around June or July 2008, RWHRA's housing choice voucher program coordinator, Becky Hinrichs, provided Complainant with a list of housing providers accepting Section 8 vouchers in the Red Wing area. Upon information and belief, the subject property was listed on the aforementioned housing list.
- 11. In or around late July or early August 2008, Complainant first contacted Respondent Ryan by telephone to inquire about renting an apartment. Complainant spoke to Respondent Ryan who advised Complainant that he had already spoken with staff from RWHRA who "vouched" for Complainant. Respondent informed Complainant that units were being worked on and invited Complainant to visit and inspect the property. At some point during this conversation, Respondent Ryan informed Complainant that he did not need to submit an application, but would need to provide Respondent Ryan with his Section 8 paperwork.
- 12. Shortly thereafter, Complainant visited the subject property and met with Respondent Ryan. Respondent Ryan informed Complainant that although some of the units were not ready for occupancy due to the renovations being made, Complainant could chose the unit he was interested in renting. As a result, Complainant inspected the units and expressed an interest in units 3 and 4 as they were both located on the second floor. At this time, Complainant also provided Respondent Ryan with his Section 8 paperwork. Respondent Ryan informed Complainant that a unit would be ready for occupancy by the first of October 2008.
- 13. In or around September 2008, Complainant contacted Respondent Ryan to inquire about the progress of the repairs. Respondent Ryan indicated that a unit would be ready for occupancy in early- to mid-October 2008. In the course of the conversation, Respondent Ryan informed Complainant that he had lost Complainant's paperwork. Respondent Ryan asked Complainant to submit another copy of the paperwork and to leave it in the mailbox near unit 2 at the subject property. As a result, Complainant completed and resubmitted the required paperwork to Respondents, as instructed.
- 14. On or about September 1, 2008, a tenant by the name of the subject property. Leave is white.
- 15. During the time Complainant waited for Respondents to complete renovations to the subject unit, Complainant requested an extension to his Section 8 voucher which was granted by RWHRA.

- 16. On or about October 17, 2008, Complainant contacted Respondent Ryan to inquire about the completion of the renovations and to inquire about when the unit would be ready for occupancy. In response, Respondent Ryan informed Complainant that "it would not work," or similar words to that effect. In the course of the conversation, Respondent Ryan informed Complainant that he could not rent the subject unit to him due to his criminal background, and also made a comment to Complainant regarding outstanding bills on his record. Before Complainant could explain his criminal background, Respondent Ryan terminated the telephone conversation by hanging up.
- 17. Shortly after the aforementioned phone conversation, Complainant contacted Respondent Ryan again by phone. Respondent Ryan informed Complainant, "I don't know what to tell you," or similar words to that effect. Respondent Ryan terminated the call and Complainant did not hear from Respondent Ryan again.
- 18. During the HUD investigation, Respondent Loki Properties' office manager, Debbie Breuer, told a HUD investigator that Respondent Loki Properties conducts a background check on its applicants. When a prospective applicant is interested in renting a unit, Respondent Loki Properties obtains the applicant's name and date of birth which is then used to search on-line public court records.
- 19. In response to Complainant's HUD complaint, Respondents stated that they have a policy of not renting to applicants with criminal records which include sexual crimes, violence and/or a felony.
- 20. During the HUD investigation of Complainant's complaint, Respondent Ryan admitted that when Complainant called to inquire about the completion of the renovations to the subject property, he informed Complainant that he was not going to rent to Complainant because of his criminal record.
- 21. Upon information and belief, in or around November 2008, white male prospective rental applicant, sought housing in the Red Wing area. contacted Respondent Loki Properties after learning about an available rental.
- 22. In or around late November 2008, called the listed telephone number for Respondent Loki Properties to inquire about the availability of a unit. spoke with Joseph Tousignant who informed that a background check would be conducted.
- 23. Subsequently met with Respondent Ryan to inspect a unit on Bluff Street, a rental property owned by Respondent Loki Properties. Upon information and belief, during the inspection, Respondent Ryan informed that he conducted a criminal background check on him and

Upon information and belief, accompanied her son to the inspection. indicated that the only time she conversed with Respondent Ryan during the inspection was to confirm the rent and to question Respondent Ryan about whether they allowed pets.

remarked that record was "pretty shitty," or similar words to that effect. Nevertheless, Respondent Ryan informed that "everybody needs a second chance; we'll give you a second chance," or similar words to that effect.

- 24. criminal records revealed that was charged with a number of felony complaints; four of which resulted in guilty convictions. The aforementioned convictions occurred between 1996 and 2007, and several were for crimes of a violent nature such as terrorist threats and 5th degree assault.
- 25. Conversely, Complainant's criminal record demonstrated that while Complainant was also charged with three felony complaints, unlike all of Complainant's felony complaints were dismissed; Complainant had no felony convictions. In addition, Complainant's felony criminal record was dated. The felony complaints against Complainant were filed between 1992 and 1999, approximately 10 years before he applied for housing at the subject property.
- 26. Notwithstanding to applicants with felonies and/or violent acts on their records, Respondents, nevertheless, rented a unit to in or around December 2008. Respondent Loki Properties admits renting the aforesaid unit to in spite of his violent and felonious criminal record.
- 27. Although Respondent Loki Properties indicated that applicants are given an opportunity to address negative criminal information, Respondent Loki Properties admits that Complainant was rejected for rental on the basis of his criminal record, but was not given an opportunity to address the criminal background information it gathered on Complainant. In addition, Respondents were unable to identify any other prospective applicants who were rejected based on their criminal records.
- 28. At no time during the HUD investigation did Respondents identify an exception to its criminal background policy to allow an applicant with a violent criminal background to have a third party "guarantee" his/her rent to circumvent the policy. Instead, Respondents maintain that "anything of a violent nature is an automatic no," or similar words to that effect.
- 29. Respondent Loki Properties, through Ms. Breuer's interview statement, indicated that Respondents "are big in Red Wing for giving second chances to people who have been evicted and that have DUI convictions," or similar words to that effect.
- 30. Unit remained vacant until December 2008, when an African-American female, entered into a lease with Respondent Loki Properties. Unit remained vacant until December 2008, when a white male, entered a lease with Respondent Loki Properties.
- 31. Respondents, through the actions described above, refused to negotiate for the rental of and otherwise made unavailable or denied a dwelling to Complainant because of his race and sex in violation of 42 U.S.C. § 3604(a).

- 32. By treating similarly situated white male rental applicants more favorably with regard to rental terms and conditions because of race and sex, Respondents violated 42 U.S.C. § 3604(b).
- 33. Due to the discriminatory conduct, Complainant has suffered damages, including, but not limited to, economic loss, physical and emotional distress, lost housing opportunity, inconvenience, embarrassment and humiliation.
- 34. As a result of the aforementioned discrimination, Complainant was forced to find another place to live. During the time Complainant sought housing from Respondents, he discontinued his search for housing as Respondent Ryan promised Complainant the subject unit. Complainant resided at from November 2008 until November 17, 2009. Upon information and belief, the aforementioned unit was contaminated with mold. This caused Complainant, who has asthma, to have difficulty breathing in the apartment. As a result, Complainant's asthma condition got worse and he became less active.
- 35. The subject property was superior to Complainant's unit at the interior and exterior of the subject property was in much better condition compared to Complainant's subsequent housing. The subject property was also located in a better neighborhood and was more private as the unit Complainant liked was located on the second floor.
- 36. Complainant has also suffered damages in the form of emotional distress. Complainant became angry, depressed, felt worthless, slept a great deal of the time, was less social, and his appetite increased causing Complainant to gain weight. In addition, the discriminatory conduct made Complainant dislike white people for a time as he began to think that all white people discriminate against black males. The discriminatory conduct also caused Complainant stress and preoccupied him which affected his relationships with family and friends. Consequently, Complainant has experienced considerable emotional stress dealing with Respondents' discriminatory conduct. This emotional stress adversely affected Complainant's mental and physical health.

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to Section 3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(a) and (b) of the Act, and prays that an order be issued that:

1. Declares that the discriminatory housing practices of Respondents as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 et seq.;

- 2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with any of them from discriminating because of race and/or sex against any person in any aspect of the purchase or rental of a dwelling;
- 3. Awards such monetary damages as will fully compensate Complainant for his economic losses and emotional distress, including, but not limited to, all out-ofpocket expenses, emotional and physical distress, embarrassment, humiliation, inconvenience, the loss of a housing opportunity and/or any and all other damages caused by Respondents' discriminatory conduct; and
- 4. Awards a \$16,000 civil penalty against each Respondent for each violation of the Act committed, pursuant to 42 U.S.C. § 3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

COURTNEY MINOR

Regional Counsel Region V

LISA M. DANNA-BRENNAN

Supervisory Attorney-Advisor

for Fair-Housing

BARBARA SLIWA

Trial Attorney

U.S. Department of Housing and

Urban Development

Office of Regional Counsel-Region V 77 West Jackson Boulevard, Room 2633

Chicago, Illinois 60604-3507

Tel: (312) 913-8613

Fax: (312) 886-4944